

Memorandum

To: NATE/OSHA Partnership Management Team Members

cc: Lee Anne Jillings

**From: Patrick Howey
National Association of Tower Erectors**

Re: OSHA Recommended Work Plan

Date: December 4, 2008

Overview

On the September 23, 2008 NATE / OSHA Partnership Management Team (PMT) conference call, OSHA advised NATE that the Association needed to take actions to further address tower safety issues. This memo is intended to address the issues raised on that call and other related issues.

From the onset, I want to emphasize NATE's leadership in tower safety, and point out that the Association's role in improving tower industry safety is unparalleled by any other organization. I am hopeful that the recent meeting between NATE and OSHA representatives helped clarify some of the areas where safety can best be addressed. On behalf of the Association, I look forward to working with all of you on those projects.

Regarding the issues raised by OSHA on the aforementioned PMT call, the following is an outline of those topics, and the activities NATE has initiated to address specific concerns.

1. Develop Safety & Health Outreach and Marketing plan to better showcase best practices, success stories and improve outreach to members.

NATE has taken the following steps in this regard:

- a. In December 2007 NATE hired the PR firm of GolinHarris to help the Association educate all segments of the industry on the cost and value of tower safety;
- b. Through this effort NATE has promoted industry best practices utilizing the Qualified Climber Evaluation Checklist and the Tower Owner Safety Checklist. These safety tools have been promoted in the media as well as on NATE's website and in NATE webinars;
- c. The second edition of the NATE Tower Climber Fall Protection Training Standard (NATE CTS) has been completed and is available to all NATE members

- free of charge via the NATE website. All industry media will be advised, and all NATE members and industry contacts will also be advised;
- d. The NATE CTS is also available to non-NATE Members because of the vital need for this information industry-wide;
 - e. NATE has conducted three safety webinars for the entire industry, with additional webcasts planned for the future;
 - f. GolinHarris has identified and continues to identify speaking opportunities for NATE at industry and safety related trade shows;
 - g. GolinHarris is working with NATE members on developing case studies for safety;
 - h. A NATE Member company has been named one of America's Safest Companies due in part to NATE's Industry Relations efforts between NATE members and the media;
 - i. NATE is marketing safety not only to tower climbers, but also to tower owners and operators. Until the hiring of unqualified contractors ends, tower fatalities will continue. NATE has taken on this issue on its own tremendous expense and use of resources. We are looking forward to further discussions regarding what role OSHA may be able to play in this process;
 - j. NATE markets safety to our members through *Tower Times*, the NATE website, NATE News email bulletins, membership brochures, and safety resources. *Tower Times* is also available to non-NATE member companies;
 - k. NATE has provided over 100 educational sessions regarding industry issues, most of which have focused on varying aspects of site safety; and
 - l. NATE developed a series of 18 different tower climber safety posters that were mailed to over 6,000 industry contacts and made available for free download from the NATE website.

2. Develop Safety & Health External Networking Plan to improve relationships with other associations.

NATE has taken the following actions:

- a. NATE members spent years working with the Telecommunications Industry Association (TIA) on Revision G of the tower structural standards -- TIA 222g;
- b. NATE members drove the development of TIA gin pole standard -- TIA 1019;
- c. NATE members again provided major leadership through TIA on the tower construction standard that grew from the work on the gin pole standard;
- d. NATE had a representative on the American National Standards Institute's (ANSI) Fall Protection Standard Committee helping with the development of ANSI Z. 359 -- the Fall Protection Standard;
- e. NATE is working with the American Society of Safety Engineers (ASSE) -- through GolinHarris -- to develop a better working relationship on safety issues. NATE prepared a tower safety article for their publication and is looking for additional ways to work together. Many NATE members are also members of ASSE;

- f. NATE has requested a speaking position at ASSE's Safety 2009 conference.
- g. NATE is working with the National Association of Broadcasters (NAB) to obtain a speaking position to discuss the TIA tower safety construction standard at the annual NAB conference and exposition in 2009;
- h. NATE is working with PCIA -- the tower industry infrastructure association -- to determine what methods exist for our associations to work together;
- i. NATE, PCIA, NAB and CTIA -- the Wireless Association -- have been working together in an active coalition for a number of years on regulatory matters;
- j. NATE and its members have made safety presentations to State Wireless Associations in Pennsylvania, the Carolinas and Georgia;
- k. NATE is currently discussing training options with the Pennsylvania Wireless Association to determine if the two associations can work together to expand access to tower climber safety training;
- l. NATE members spent six years working with the state of North Carolina on the development of it's Tower Safety Standards; and
- m. NATE played a major role in the development of the Michigan Tower Safety Standard, including a NATE member co-chairing the Advisory Committee and NATE member consultants being present at all meetings during a process that lasted over two years.

3. Develop Safety & Health Page on NATE website.

NATE is currently engaged in the following activities in this regard:

- a. Revisions to the NATE Website have been planned for some time but this activity is on hold until NATE fills its production coordinator position. We are in agreement that better access to safety materials online can be accomplished;
- b. Resources have been dedicated to this project this fiscal year;
- c. However, the NATE website already has access to safety information including access to:
 - NATE safety videos;
 - the NATE Accident Prevention Safety & Health Program Guide;
 - the NATE RF Awareness manual;
 - the NATE Hoist Standard;
 - the NATE Hoist Operators Educational Requirements Manual and other safety resources;
 - Links to OSHA and other organizations;
 - NATE Qualified Contractor Evaluation Checklist;
 - NATE Tower Owner Safety Checklist;
 - Access to 18 free safety posters developed to address critical safety issues in a manner that will reach tower climbers;
 - Replay and download of NATE safety webinars; and
 - Much more, including a *Tower Times* archive to locate safety articles, tailgate talk topics, health information; OSHA reports; regulatory news and legal guidance.

- d. NATE also provides safety updates to members via email called NATE News.

4. Conduct Internal S&H training (both classroom-based and web-based).

NATE is currently engaged in the following activities:

- a. NATE provides tower climber safety training at our annual conference each year;
 - b. NATE is currently developing its first "online" training program for hoist operator educational requirements. The program should be completed by early 2009;
 - c. Online training for tower climber orientation is under preliminary discussion;
 - d. NATE has completed work on the second edition of its Tower Climber Fall Protection Training Standard (NATE CTS) and will be releasing the program to both NATE members and non-members this year. The NATE CTS was developed to be used for either in-house training or by commercial trainers.
 - e. NATE continues to add safety materials to its list of safety resources, including the NATE Accident Prevention, Safety & Health Program Guide, NATE Hoist Operator's Educational Requirements Guide, Tower Signals and Communication Guide, Roof Top Safety Protocol manual; Site Signage materials, the RF Awareness Guide, and videos on best practices regarding Personnel Hoisting, Crib Pole Procedures, and RF Awareness;
 - f. In every issue of *Tower Times* magazine NATE identifies member training companies who provide training to the NATE CTS; and
 - g. Commercial trainers are available to meet with NATE members at each year's annual conference & exposition to discuss training.
- 5. NATE should hire a full time safety and health specialist to oversee the safety operations of our members. It was suggested on the PMT call that this person could conduct training and accident investigations, collect/manage illness/injury data/analysis, conduct accident investigations, conduct other studies, provide technical assistance to members to assist in the development and enhancement of their SHMS. It was also suggested that this person could be used to help respond to safety questions so NATE would stop asking so much of OSHA representative Jocko Vermillion.**

NATE has considered creating this position for many years, but to date has found the idea infeasible for numerous reasons:

- a. There are liability issues;
- b. There are relationship issues to consider if NATE is investigating and providing data to OSHA regarding specific members;
- c. Resource issues exist regarding the cost of hiring this individual, and providing them with appropriate support staff;

- d. Along these lines, the position described above is not a one person job given the hundreds of members NATE has;
- e. Regarding climber training -- NATE offers climber training at our annual event. We have considered offering training more often, but the cost and staff time is a significant consideration;
- f. Regarding NATE's use of OSHA employee Jocko Vermillion as a consultant on safety (as described on the PMT call). NATE only calls him when needed. The vast majority of safety questions asked of NATE are handled within NATE. The reason NATE has utilized Jocko as a resource is because he was kind enough to offer his services. Right now he is the best source of OSHA information regarding specific questions raised by our members. This seems reasonable under the terms of the Agreement, and is very helpful to NATE members.
- g. In addition, some components of OSHA training are spelled out in the Partnership Agreement. OSHA 10 Hour Training is an item offered to NATE in the Agreement. This is OSHA's best opportunity to show NATE members we are working together.
- h. Having a NATE employee conduct accident investigations of NATE members could create conflict of interest situations for the Association.

6. Develop a database on accidents for our members to review.

NATE would highlight the following concerns with this request:

- a. OSHA recently advised NATE that OSHA will not provide this information due to liability concerns. NATE faces the exact same issues;
- b. References were made on the PMT call to using NATE resources to list information about accidents once we know what happened; but printing speculative information about an accident is not in NATE's best interest nor in the best interest of our members;
- c. I know NATE members would appreciate this information, but if we cannot obtain factual information from reliable sources, then this is as much a problem for NATE as it is for OSHA.

Considerations

While NATE was working on the activities listed above, OSHA officials were quoted as saying our industry was the most dangerous in America. That criticism was levied despite NATE driven safety activities -- such as the 2004 ACCSH recommendations regarding a tower safety standard be developed and Compliance Directive CPL 2-1.36 -- have not been completed by OSHA. In other words, while OSHA criticized the industry and advised NATE to step up, the agency was overlooking activities that could save lives.

Partnership

As mentioned at our meeting on November 19, 2008, the Partnership between our two organizations was originally just that -- a partnership where we worked together toward common goals. Being told to "step up" and given a list of activities that NATE is to

complete does not meet the definition of being partners. Given NATE's leadership and investment in tower safety, and the lengthy list of safety activities in which the Association is already engaged, I am hopeful the coming years will return to the spirit of the program, and mandates not mutually approved or included in our agreement will be relegated to the past.

Conclusions

NATE continues to dutifully address those components of tower climber safety listed above, and more, at no small cost to the Association. In terms of commitment of dollars, volunteer time and staff resources, the Association has spared nothing in seeing tower climber safety issues addressed. NATE will continue to do this.

The value of training cannot be overstated, and NATE remains committed to helping its members become better trained. Yet a review of the accidents this year may provide some insight into other crucial components of improving tower climber safety. I suggest there are three areas that require OSHA's attention:

1. Tower service companies that do not properly train and equip their employees;
2. Employees who are trained but do not apply their training while they work; and
3. Tower owners, carriers, broadcasters and general contractors who hire unqualified contractors.

Allow me to elaborate on these matters.

Tower Service Companies That Do Not Properly Train and Equip Their Employees

If an employee is injured or dies because they were not trained, OSHA should respond to the fullest extent of its authority. NATE does not want this type of company operating any more than OSHA does. These companies are a danger to their employees and hurt the image of the industry. Such companies should not be allowed to continue operating unless they are willing to follow the rules.

Trained Employees Who Do Not Apply Their Training to the Job Site

Regarding climbers not applying their training, I wonder how many tower climbers who died in 2008 had received training. If they had been trained but did not apply their training while working, then at some point we need to start thinking outside the box on this issue. Some recognition of employee accountability is necessary to address this aspect of tower climber safety.

Clients Who Hire Unqualified Contractors

Finally, if companies have not trained their employees, then that company is unqualified and should never have been hired. Tower owners, carriers, broadcasters and general contractors who allow such companies to end up on their sites are one of the biggest factors in tower site fatalities and must be addressed. OSHA needs to find a way to deal with these companies or accept that fatalities are going to continue.

Another aspect of this concern is unrealistic scheduling of tower crews, where owners and operators may make demands for completion of projects that create unsafe practices, even for qualified contractors.

It is crucial to understand the economic interest at stake here. As long as companies can increase their profit margin by ignoring training and equipment, and as long as owners and operators can hire those unqualified companies or push unrealistic schedules to save money, and as long as employees are not held accountable for ignoring training they have received, our joint efforts will not bring an end to tower climber fatalities. NATE is already working on addressing these issues to the extent possible, but OSHA's involvement is needed too. Fining companies who properly train and equip their employees does nothing to fix any of these scenarios.

Solutions

Some of the solutions are already in progress and were discussed at our meeting on November 19, 2008. We just need to see them through to fruition:

1. Complete the revised version of CPL 2-1.36;
2. Begin work on the national tower safety standard, as outlined by NATE and ACCSH in 2004; and
3. Open discussions with NATE regarding how multi-employer workplace doctrines can be applied, as discussed at the November 19, 2008 meeting.

NATE will continue its efforts to develop additional methods of improving tower climber safety.

A Culture of Safety

These items are part of the bigger solution, which is the establishment of a culture of safety in the industry. We all agree that safety must be seen as the only way to do a job. While education and training are crucial aspects of this effort, they have realistic limits that we must transcend. In order to begin making safety "second nature", we need to gather the attention of all who are involved -- from the tower climber up to the CEO's of the tower owners and operators. Unfortunately, this will only work for some entities if there is an economic incentive to operating safely, whether this is for the employer, the employee or the customer who hires them. We need to work together toward that end, or we will continue to face fatalities like we have this year.